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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,953	12/30/2003	Mary Rose Rice	14177-1600	7896

21611 7590 05/04/2005

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EXAMINER

CASCHERA, ANTONIO A

ART UNIT	PAPER NUMBER
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2676

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/748,953

Applicant(s)

RICE, MARY ROSE

Examiner

Antonio A Caschera

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Invention I, drawn to claims 1-15 in the reply filed on 03/28/2005 is acknowledged.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: #104 in paragraph 18, line 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Microsoft PhotoDraw 2000 (known herein as PhotoDraw) (Microsoft Corp. © 1995-1999, version 2.0.0.1229, Screenshots 1-17).

In reference to claim 1, PhotoDraw discloses a method for displaying color swatches in a color palette whereby a new color palette can be created via an object "Fill" color option (see Screenshots, Figures 1-4). PhotoDraw discloses the option of a user to create a custom color palette using a color picker whereby a plurality of colors can be selected and inserted into the palette (see Figure 5, color picker window entitled, "Choose Color" and cursor tooltip/caption). PhotoDraw discloses the capabilities of allowing a user, operating an input device such as a mouse, to select a plurality of paint colors and place them into a palette by designating a swatch for every color of the palette (see Figures 6-8). Note, the office interprets the swatches of PhotoDraw (see the white outlined rectangles within the custom palette of Figure 8) functionally equivalent to the "sample cards" of applicant's claim. Further, PhotoDraw allows arranging the swatches within the custom palette so that the swatches gradually vary in hue in a vertical direction while gradually varying in saturation, also known as chroma, in the horizontal direction (see Figures 10-13 for varying hue, noting the hue values in the "Choose Color" window and the up/down selection of color swatches and Figures 14-16, for varying chroma, noting the saturation values in the "Choose Color" window and the left-to-right selection of color swatches).

In reference to claim 2, PhotoDraw discloses all of the claim limitations as applied to claim 1 above in addition, PhotoDraw discloses defining a plurality of color categories by

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allowing for each row of the color palette to comprise a specific hue angle value and arranging all swatches with equal hue values into the same row (see Figures 10-13, noting the hue values in the "Choose Color" window, 359 = 1st row, 270 = 2nd row, 180 = 3rd row and 90 = 4th row). PhotoDaw discloses each hue angle row to be sorted by chroma (saturation) values (see row #1 of Figures 14-16).

In reference to claim 3, PhotoDraw discloses all of the claim limitations as applied to claim 2 above. Since, PhotoDraw discloses allowing the user to select and add paint colors to a custom color palette which is further categorized by hue/saturation (see Figure 5 and Figures 10-13, noting the hue values in the "Choose Color" window, 359 = 1st row, 270 = 2nd row, 180 = 3rd row and 90 = 4th row), the office interprets that PhotoDraw inherently discloses adding colors to a category based on expert human input because the user is performing the addition of colors himself using an input device to control the displayed pointer (see pointer of Figures 1-16).

In reference to claim 5, PhotoDraw discloses all of the claim limitations as applied to claim 1 above. PhotoDraw allows arranging the swatches within the custom palette so that the swatches gradually vary in hue in a vertical direction while gradually varying in saturation, also known as chroma, in the horizontal direction (see Figures 10-13 for varying hue, noting the hue values in the "Choose Color" window and the up/down selection of color swatches and Figures 14-16, for varying chroma, noting the saturation values in the "Choose Color" window and the left-to-right selection of color swatches). This creates a plurality of "white tinted" color swatches for each hue angle value, arranged adjacent to other color swatches who have equivalent hue values in each row (see lighter colored swatches located in the right most portion of the four rows of the custom color palette in Figure 16).

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In reference to claim 6, PhotoDraw discloses all of the claim limitations as applied to claim 1 above. PhotoDraw allows arranging the swatches within the custom palette so that the swatches gradually vary in hue in a vertical direction while gradually varying in saturation, also known as chroma, in the horizontal direction (see Figures 10-13 for varying hue, noting the hue values in the "Choose Color" window and the up/down selection of color swatches and Figures 14-16, for varying chroma, noting the saturation values in the "Choose Color" window and the left-to-right selection of color swatches).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft PhotoDraw 2000 (known herein as PhotoDraw) (Microsoft Corp. © 1995-1999, version 2.0.0.1229, Screenshots 1-17).

In reference to claim 4, PhotoDraw discloses all of the claim limitations as applied to claim 1 above. Although PhotoDraw inherently discloses arranging and displaying color swatches in a custom color palette so that the most chromatic cards are arranged left-to-right (see Figures 14-16, for varying chroma, noting the saturation values in the "Choose Color" window and the left-to-right selection of color swatches), PhotoDraw does not explicitly disclose displaying swatches so that the most chromatic cards are at the top of a column and gradually

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decreasing in value toward the bottom of the column. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify the current configuration of the swatches in the custom color palette of PhotoDraw in order to comply with the chromatic column color limitations of applicant's invention. Applicant has not disclosed that specifically orienting the colors by chroma values in a vertical orientation provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the horizontal ordering of chroma values of PhotoDraw because exact orientation of colors is a matter of design choice and in this case, is a matter that may be preferred by the designer or user of the invention.

Further, since PhotoDraw allows for the creation of a custom color palette and arrangement of color swatches within the palette, the office interprets that the exact configuration of colors, as claimed by applicant, could easily be obtainable in PhotoDraw. Therefore, it would have been obvious to one of ordinary skill in this art to modify PhotoDraw to obtain the invention as specified in claim 4.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft PhotoDraw 2000 (known herein as PhotoDraw) (Microsoft Corp. © 1995-1999, version 2.0.0.1229, Screenshots 1-17) in view of "Painting on Location Lesson-RCW, The Original Real Color Wheel," Jusko, Donald, A. Last Updated on 09/14/2003 (known herein as Jusko).

In reference to claim 7, PhotoDraw discloses all of the claim limitations as applied to claim 1 above however, PhotoDraw does not explicitly disclose arranging one or more color coordination sample cards adjacent to the first plurality of sample cards. Jusko discloses a color wheel comprising color slices arranged adjacent to one another (see #1-36 of color wheel).

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Jusko also discloses each color slice comprising related colors arranged adjacent to the outside most color of the slice along with complementary colors arranged along an inner-most ring of the wheel found by traveling towards the center of the wheel along a color slice (see the color wheel of Jusko). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color arrangement techniques of Jusko with the color palette arrangement techniques of PhotoDraw in order to provide more clear and concise differences between similar colors, allowing a user to choose a most desirable color for use.

6. Claims 8-10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft PhotoDraw 2000 (known herein as PhotoDraw) (Microsoft Corp. © 1995-1999, version 2.0.0.1229, Screenshots 1-17) in view of Wright et al. (U.S. Pub. 2004/0046802 A1).

In reference to claims 8 and 12, PhotoDraw discloses displaying color swatches in a color palette whereby a new color palette can be created via an object “Fill” color option (see Screenshots, Figures 1-4). PhotoDraw discloses the option of a user to create a custom color palette using a color picker whereby a plurality of colors can be selected and inserted into the palette (see Figure 5, color picker window entitled, “Choose Color” and cursor tooltip/caption). PhotoDraw discloses the capabilities of allowing a user, operating an input device such as a mouse, to select a plurality of paint colors and place them into a palette by designating a swatch for every color of the palette (see Figures 6-8). Note, the office interprets the swatches of PhotoDraw (see the white outlined rectangles within the custom palette of Figure 8) functionally equivalent to the “sample cards” of applicant’s claim. Further, PhotoDraw allows arranging the swatches within the custom palette so that the swatches gradually vary in hue in a vertical direction while gradually varying in saturation, also known as chroma, in the horizontal direction

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(see Figures 10-13 for varying hue, noting the hue values in the “Choose Color” window and the up/down selection of color swatches and Figures 14-16, for varying chroma, noting the saturation values in the “Choose Color” window and the left-to-right selection of color swatches). This creates a plurality of “white tinted” color swatches for each hue angle value, arranged adjacent to other color swatches who have equivalent hue values in each row (see lighter colored swatches located in the right most portion of the four rows of the custom color palette in Figure 16). Although PhotoDraw inherently discloses arranging and displaying color swatches in a custom color palette so that the most chromatic cards are arranged left-to-right (see Figures 14-16, for varying chroma, noting the saturation values in the “Choose Color” window and the left-to-right selection of color swatches), PhotoDraw does not explicitly disclose displaying swatches so that the most chromatic cards are at the top of a column and gradually decreasing in value toward the bottom of the column. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify the current configuration of the swatches in the custom color palette of PhotoDraw in order to comply with the chromatic column color limitations of applicant’s invention. Applicant has not disclosed that specifically orienting the colors by chroma values in a vertical orientation provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant’s invention to perform equally well with the horizontal ordering of chroma values of PhotoDraw because exact orientation of colors is a matter of design choice and in this case, is a matter that may be preferred by the designer or user of the invention. Further, since PhotoDraw allows for the creation of a custom color palette and arrangement of color swatches within the palette, the office interprets that the exact configuration of colors, as

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claimed by applicant, could easily be obtainable in PhotoDraw. Therefore, it would have been obvious to one of ordinary skill in this art to modify PhotoDraw to obtain the invention as specified in claim 8. PhotoDraw however, does not explicitly disclose a card display having a plurality of columns and rows. Wright et al. discloses a color selection system by which a user of the system may generate a palette of colors (see paragraph 1, lines 1-3 of Wright et al.).

Wright et al. discloses the color selection system based upon a computer system which Wright et al. further discloses to comprise of a color monitor having a screen for displaying images (see paragraph 31, lines 1-4). Wright et al. discloses arranging colors in a palette up for selection based upon hue, chroma and value attributes of colors (see paragraph 48 and Figure 3 of Wright et al.). Wright et al. specifically discloses grouping colors with decreasing chroma in a row-by-row format (see paragraph 48, lines 8-12 and Figure 3). Note, as seen above in reference to PhotoDraw, the office interprets the plurality of colors with “lower” chroma values in a single column, equivalent to “white paint colors” as these “white paint colors” are adjacent to colors having similar hues (see header of palette (5R, 10R...hue values) and column (/0, /2, /4...chroma values) of Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the custom color palette creation techniques including color arrangement techniques, of PhotoDraw with the computer system employing a color monitor display of Wright et al. in order to execute the above methods of PhotoDraw since Microsoft PhotoDraw is an executable program, functioning with a computer system permitting a user to enter data and initiating color palette creation (see paragraph 31, lines 4-17 of Wright et al.). Further in reference to claim 12, the office interprets the color monitor of Wright et al. functionally equivalent to the display unit of applicant’s claim as the monitor displays a two-

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dimensional array of color values, having a plurality of contiguous hue regions of a full range of hue values (see header of palette in Figure 3, (5R, 10R...10RP)).

In reference to claim 9, PhotoDraw and Wright et al. disclose all of the claim limitations as applied to claim 8 above. PhotoDraw allows arranging the swatches within the custom palette so that the swatches gradually vary in hue in a vertical direction while gradually varying in saturation, also known as chroma, in the horizontal direction (see Figures 10-13 for varying hue, noting the hue values in the "Choose Color" window and the up/down selection of color swatches and Figures 14-16, for varying chroma, noting the saturation values in the "Choose Color" window and the left-to-right selection of color swatches). This creates a plurality of "white tinted" color swatches for each hue angle value, arranged adjacent to other color swatches who have equivalent hue values in each row (see lighter colored swatches located in the right most portion of the four rows of the custom color palette in Figure 16).

In reference to claim 10, PhotoDraw and Wright et al. disclose all of the claim limitations as applied to claim 8 above. PhotoDraw allows arranging the swatches within the custom palette so that the swatches gradually vary in hue in a vertical direction while gradually varying in saturation, also known as chroma, in the horizontal direction (see Figures 10-13 for varying hue, noting the hue values in the "Choose Color" window and the up/down selection of color swatches and Figures 14-16, for varying chroma, noting the saturation values in the "Choose Color" window and the left-to-right selection of color swatches). This creates a plurality of color swatches for each hue angle value, arranged adjacent to other color swatches who have equivalent hue values but varying chroma values in each row (see above referenced Figures 10-16).

In reference to claim 13, PhotoDraw and Wright et al. disclose all of the claim limitations as applied to claim 12 above. Since each color swatch in PhotoDraw is equivalent to a color sample card, as interpreted by the office, and also since each swatch comprises one hue value and one chroma value, the office interprets that PhotoDraw inherently discloses the color swatches having colors spanning less than a total hue range and a total chroma range of a first hue region or row in the custom palette shown in Figures 10-16 of PhotoDraw.

In reference to claim 14, PhotoDraw and Wright et al. disclose all of the claim limitations as applied to claim 12 above. Since each color swatch includes one value of chroma, the office interprets that each color swatch inherently represents a different chromatic range. For example, a color swatch with chroma value 25 inherently excludes the range of values 0-24 and 26-100.

In reference to claim 15, PhotoDraw and Wright et al. disclose all of the claim limitations as applied to claim 12 above. Since each color swatch of PhotoDraw includes one hue value associated thereto and applying the above methodology presented in claim 14, the office interprets that the swatches have non-overlapping hue ranges relative to each other.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft PhotoDraw 2000 (known herein as PhotoDraw) (Microsoft Corp. © 1995-1999, version 2.0.0.1229, Screenshots 1-17), Wright et al. (U.S. Pub. 2004/0046802 A1) and further in view of "Painting on Location Lesson-RCW, The Original Real Color Wheel," Jusko, Donald, A. Last Updated on 09/14/2003 (known herein as Jusko).

In reference to claim 11, PhotoDraw and Wright et al. disclose all of the claim limitations as applied to claim 8 above however, neither PhotoDraw nor Wright et al. explicitly disclose arranging one or more color coordination sample cards adjacent to the first plurality of sample

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cards. Jusko discloses a color wheel comprising color slices arranged adjacent to one another (see #1-36 of color wheel). Jusko also discloses each color slice comprising related colors arranged adjacent to the outside most color of the slice along with complementary colors arranged along an inner-most ring of the wheel found by traveling towards the center of the wheel along a color slice (see the color wheel of Jusko). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the color arrangement techniques of Jusko with the color palette arrangement techniques of PhotoDraw and computer system employing a color monitor display of Wright et al. in order to provide more clear and concise differences between similar colors, allowing a user to choose a most desirable color for use.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Antonio Caschera whose telephone number is (571) 272-7781. The examiner can normally be reached Monday-Thursday and alternate Fridays between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella, can be reached at (571) 272-7778.

Any response to this action should be mailed to:

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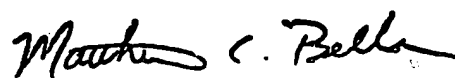
or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

aac

5/2/05

A handwritten signature in black ink, appearing to read "Matthew C. Bella".

MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600